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## INTERAGENCY ADVISORY GROUP

UNITED STATES OF AMERICA  
OFFICE OF PERSONNEL MANAGEMENT  
WASHINGTON, D.C. 20415

Secretariat  
Room 1304—1900 E St., N.W.  
Code 101, Ext. 26266 or  
Area Code 202—632-6266

### MINUTES OF THE IAG COMMITTEE ON PERFORMANCE APPRAISAL

October 22, 1979

ArDee Ames, Director of the Special Programs Consulting Division moderated the meeting. Agencies interested in having a special working group devoted to problem areas in implementing performance appraisal may contact the Special Programs Consulting Division on 254-3094 so that the group may be organized.

Agencies which must work on a performance appraisal system for attorneys may be interested in a special working group of attorneys who are working in this area. The task group leader is Andy Latvala of HUD. If interested, contact him on 755-8209.

Bill Lynch of Agency Relations' Workforce Records Management Branch discussed OPM's thoughts on maintaining supervisory notes for performance appraisal under the Privacy Act. OPM's opinions were represented in First-Line magazine's June/July 1976 issue with a follow-up article in the August/September 1977 issue.

Supervisor's notes are not subject to the Privacy Act if they serve as memory aid. They may not be disseminated to any other person and must either be retained or discarded at the originator's discretion. Also in this light, notes may be kept so long as the agency has no control over them. The notes may also be used to reward good employees and to counsel poor ones.

Anne Allen, Staff Attorney from OGC discussed the legal aspects of the Wells vs. Harris case before the MSPB. No decision on this case has been issued. OPM is advising agencies to proceed in taking actions based on unacceptable performance even though an agency may not have their entire performance appraisal system implemented. The procedures to follow in this interim period are outlined in the 432 regulations.

Wilma Lehman of WED added that of the 35 cases presented for MSPB decision on 432 actions, 25 (71%) have been sustained, 5 have been dismissed because of no purview or EEO regulations, and 4 have been reversed on procedures and one reversed on merit.

Marilyn Morton, attorney in the Office of Labor Management Relations, discussed the status of cases before the FLRA. The negotiability of performance elements issue has not been decided by the Authority. However, it is OPM's contention that it is a management responsibility to assign work and thus non-negotiable.